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MEASURES TO ELIMINATE INTERNATIONAL TERRORISM

Letter dated 1 November 1996 from the Permanent Representative of India to the United Nations addressed to the Secretary-General

I have the honour to refer to agenda item 151 of the fifty-first session of the General Assembly and to state that the Government of India has prepared a draft international convention on the suppression of terrorism for consideration by Member States (see annex).

It is requested that the present letter and its annex be circulated as a document of the General Assembly under agenda item 151.

(Signed) Prakash SHAH
Permanent Representative

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ANNEX

Draft international convention on the suppression of terrorism

The States Parties to this Convention,

Recalling the existing international conventions relating to various aspects of the problem of international terrorism,

Recalling also General Assembly resolution 49/60 of 9 December 1994 and the Declaration on Measures to Eliminate International Terrorism annexed thereto,

Deeply concerned about the worldwide escalation of acts of terrorism in all forms, which endanger or take innocent lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

Reaffirming their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize friendly relations among States and peoples and threaten the territorial integrity and security of States,

Recognizing that acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the undermining of human rights, fundamental freedoms and the democratic basis of society,

Recognizing also that the financing, planning and inciting of terrorist acts are also contrary to the purposes and principles of the United Nations, and that it is the duty of the Contracting Parties to bring to justice those who have participated in such terrorist acts,

Convinced that the suppression of acts of international terrorism, including those in which States are directly or indirectly involved, is an essential element for the maintenance of international peace and security, and the sovereignty and territorial integrity of States,

Realizing the need to develop further a comprehensive legal framework of conventions dealing with international terrorism,

Have resolved to take effective measures to ensure that perpetrators of terrorist acts do not escape prosecution and punishment by providing for their extradition or prosecution, and to that end have agreed as follows:

Article 1

The Contracting States undertake to cooperate among themselves by taking all the measures that they may consider effective, under their own laws, and in

particular those established pursuant to this Convention, to prevent and punish acts of terrorism, especially those referred to in article 2 of this Convention.

Article 2

1. The Contracting States shall ensure that their national laws recognize that criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are under any circumstances unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them.

2. In particular, for purposes of extradition between Contracting States, none of the following offences shall be regarded as a political offence or as an offence connected with a political offence or as an offence inspired by political motives:

(a) An offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970;

(b) An offence within the scope of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971;

(c) An offence within the scope of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly on 14 December 1973; 1/

(d) An offence within the scope of the International Convention against the Taking of Hostages, signed at New York on 17 December 1979; 2/

(e) Murder, manslaughter or assault causing serious bodily harm, kidnapping or serious unlawful detention;

(f) An offence involving the use of firearms, weapons, explosives or other dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury to persons or serious damage to property;

(g) An attempt to commit any of the foregoing offences or participation as an accomplice of a person who commits or attempts to commit such an offence.

1/ Resolution 3166 (XXVIII), annex.

2/ Resolution 34/146, annex.

Article 3

1. The Contracting States shall refrain from organizing, instigating, facilitating, financing, assisting or participating in the commission of terrorist offences, in particular those referred to in article 2, in the territories of other States, or acquiescing in or encouraging or tolerating activities within their territories directed towards the commission of such offences.

2. The Contracting States shall also take practical measures to ensure that their respective territories are not used for terrorist installations and training camps or for the preparation or organization of terrorist acts, in particular those referred to in article 2, intended to be committed against other States or their citizens.

3. The Contracting States shall take appropriate measures, before granting asylum for the purpose of ensuring that the asylum seeker has not engaged in terrorist activities, in particular those referred to in article 2, and, after granting asylum, for the purpose of ensuring that refugee status is not used in a manner contrary to the provisions of this Convention.

4. Towards this end, the Contracting States shall cooperate in preventing and punishing the crimes referred to in article 2 of this Convention. The Contracting States shall further:

(a) Take all measures within their power, in conformity with the purposes and principles of the Charter of the United Nations and other relevant rules of international law, to prevent and impede the preparation in their respective territories of the crimes referred to in article 2 that are to be carried out in the territory of another Contracting State;

(b) Engage in systematic exchange of information and consider effective implementation of relevant international conventions, including the harmonization of their domestic legislation with those conventions, and conclusion of mutual judicial assistance and extradition agreements on a bilateral or regional basis and other measures for the purpose of combating offences referred to in article 2 of this Convention;

(c) Include in their penal laws, if not already so included, the criminal acts contemplated in this Convention;

(d) Comply most expeditiously with requests for extradition and mutual judicial assistance concerning the criminal acts contemplated in this Convention on the basis of existing arrangements or agreements, or, in their absence, on the basis of this Convention.

5. The Contracting States shall guarantee to every person deprived of his freedom through the application of this Convention every right to defend himself.

Article 4

1. The Contracting State in whose territory the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.

2. Any person regarding whom proceedings are being brought in connection with any of the offences referred to in article 2 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the law of the State in the territory in which he is present.

Article 5

1. Contracting States shall afford one another the widest measure of mutual judicial assistance in criminal matters in connection with proceedings brought in respect of the offences referred to in article 2. The law of the requested State concerning mutual assistance in criminal matters shall apply in all cases. Nevertheless, this assistance may not be refused on the sole ground that it concerns a political offence or an offence committed with a political offence or an offence inspired by political motives.

2. The provisions of paragraph 1 of this article shall not affect obligations concerning mutual judicial assistance embodied in any other treaty.

Article 6

The Contracting State where the alleged offender is prosecuted in accordance with its laws shall communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States concerned and the international intergovernmental organizations concerned.

Article 7

1. The offences referred to in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between Contracting States. The Contracting States undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a Contracting State that makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, the requested State may at its option consider this Convention as the legal basis for extradition in

respect of the offences referred to in article 2. Extradition shall be subject to the other conditions provided for by the law of the requested State.

3. The Contracting States that do not make extradition conditional on the existence of a treaty shall recognize the offences referred to in article 2 as extraditable offences between themselves subject to the conditions provided for by the law of the requested State.

4. The offences referred to in article 1 shall be treated, for the purpose of extradition between Contracting States, as if they shall had been committed not only in the place in which they occurred but also in the territories of the requested States.

Article 8

1. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the crimes referred to in article 2 in the following cases:

(a) When the crime is committed in the territory of that State or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State or by a person who has his habitual residence in its territory.

2. A Contracting State may also establish its jurisdiction over any such crime when it is committed:

(a) By a stateless person whose habitual residence is in that State; or

(b) With respect to a national of that State; or

(c) In an attempt to compel that State to do or to abstain from doing any act.

3. Any Contracting State that has established jurisdiction as referred to in paragraph 2 shall notify the Secretary-General of the United Nations. If such a Contracting State subsequently rescinds that jurisdiction, it shall notify the Secretary-General of the United Nations.

4. Each Contracting State shall take such measures as may be necessary to establish its jurisdiction over the crimes referred to in article 2 in cases where the alleged offender is present in its territory and where it does not extradite such a person to any of the Contracting States that have established their jurisdiction in accordance with paragraphs 1 or 2.

5. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

Article 9

1. Any dispute between two or more States Parties concerning the interpretation of application of this Convention shall be settled by negotiation. If the Parties failed to settle the dispute within six months, any one of those Parties may refer the dispute to the International Court of Justice by application in conformity with the Statute of the Court.

2. Each Contracting Party may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by all or part of paragraph 1 of this article. The other Contracting Parties shall not be bound by paragraph 1 or the relevant part thereof with respect to any Contracting Party that has made such a reservation.

3. Any Contracting Party that has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 10

At the request of one or more Contracting Parties, and if approved by the majority of Contracting Parties, the Secretary-General of the United Nations shall convene a meeting of the Contracting Parties to review the implementation of the Convention and any problems encountered with regard to its application.

Article 11

1. This Convention is open for signature by all States, until _____, at United Nations Headquarters in New York.

2. This Convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention is open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 12

This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

Article 13

This Convention shall be open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 14

1. This Convention shall enter into force thirty days after twenty-two instruments of ratification, acceptance, approval or accession have been deposited with the Secretary-General of the United Nations.

2. For each State ratifying or acceding to the Convention after the deposit of the twenty-second instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after deposit by such State of its instrument of ratification or accession.

Article 15

1. A Contracting State may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which notification is received by the Secretary-General of the United Nations.

Article 16

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at _____ on _____ 199 .